

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**NISHA CORPORATION,**

**Plaintiff,**

**VS.**

**UNITED STATES LIABILITY  
INSURANCE COMPANY,**

**Defendant.**

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**CIVIL ACTION  
NO. 5:17-cv-1065**

**DEFENDANT UNITED STATES LIABILITY INSURANCE COMPANY’S  
NOTICE OF REMOVAL**

TO THE HONORABLE COURT:

Pursuant to 28 U.S.C. Sections 1441 and 1446, Defendant United States Liability Insurance Company (“USLIC” or “Defendant”), in Cause No. 2017CI16536, pending in the 166th Judicial District Court of Bexar County, Texas, files this Notice of Removal from that court to the United States District Court for the Western District of Texas, San Antonio Division, because the proper parties are of diverse citizenship and the amount in controversy requirement is satisfied. In support of this Notice of Removal, Defendant respectfully shows:

**I.  
FACTUAL BACKGROUND**

1.1 On August 30, 2017, Plaintiff, Nisha Corporation (“Plaintiff”) filed its Original Petition in the matter styled *Nisha Corporation vs. United States Liability Insurance Company*; Cause No. 2017CI16536, in the 166th Judicial District Court of Bexar County, Texas, in which Plaintiff asserted that Defendant improperly investigated and wrongfully denied Plaintiff’s claim for commercial property insurance proceeds arising from damages Plaintiff alleged were caused

by a wind/hail storm in April 2016. *See* Plaintiff's Original Petition attached as Exhibit 2-A at ¶¶10-16.

1.2 Prior to filing its Original Petition, Plaintiff served a demand letter on USLIC dated July 24, 2017. In this letter, Plaintiff cited to an estimate from Texas Claim Consultants stating the date of loss as April 12, 2016. *See* Exhibit 3.

1.3 On September 29, 2017, Defendant United States Liability Insurance Company ("USLIC") sent Plaintiff a letter notifying it that the claimed property damages, which Plaintiff has expressly attributed to an April 2016 storm, are not covered by any insurance policy issued to Plaintiff by USLIC because USLIC did not begin insuring Plaintiff's property until May 6, 2017. *See* Exhibit 4. Accordingly, USLIC requested Plaintiff voluntarily dismiss this lawsuit. *Id.*

1.4 Rather than dismiss this groundless lawsuit as requested, Plaintiff filed its First Amended Petition, and merely changed the "date" of the alleged loss to "February 2017." *See* Plaintiff's First Amended Petition attached as Exhibit 2-C at ¶10. Plaintiff, however, has provided no evidence demonstrating that any of the claimed damages occurred during USLIC's coverage period.

## **II.**

### **BASIS FOR REMOVAL**

2.1 Removal is proper based upon diversity of citizenship under 28 U.S.C. §§ 1332(a)(1), 1441(a), and 1446.

#### **A. THE PARTIES ARE OF DIVERSE CITIZENSHIP**

2.2 Upon information and belief, and as plead in its Original Petition, Plaintiff, Nisha Corporation, is a Texas Domestic For-Profit Corporation incorporated in Texas, doing business under the assumed name of Fine Food Mart, with its principal place of business in Texas.

Accordingly, based on Plaintiff's allegations, it appears Plaintiff is citizen of Texas for diversity purposes. *See Original Petition* [Ex. 2-A] at ¶1.

2.3 Defendant United States Liability Insurance Company ("USLIC") is an insurance business corporation incorporated in Pennsylvania, with its principal place of business in Pennsylvania, and is a citizen of the State of Pennsylvania for diversity purposes. Accordingly, Defendant USLIC is of diverse citizenship to Plaintiff, Nisha Corporation.

**B. THE AMOUNT IN CONTROVERSY EXCEEDS THE JURISDICTIONAL REQUIREMENTS FOR SUBJECT MATTER JURISDICTION**

2.4 The amount in controversy requirement for Federal diversity jurisdiction is clearly satisfied in this case as evidenced by Plaintiff's Original Petition in which Plaintiff expressly alleges that it seeks "monetary relief in excess of \$1,000,000, exclusive of interest and costs." *See Original Petition* [Ex. 2-A] at ¶4. This amount clearly exceeds the jurisdictional requirements for subject matter jurisdiction, and demonstrates that the amount in controversy requirement is satisfied.

**III.  
THE REMOVAL IS PROCEDURALLY CORRECT**

3.1 Defendant, USLIC was first served with Plaintiffs' Original Petition on September 21, 2017. Defendant files this notice of removal within the 30-day time period required by 28 U.S.C. § 1446(b).

3.2 Venue is proper in this District under 28 U.S.C. §1446(a) because this District includes the county in which the state action has been pending.

3.3 Pursuant to 28 U.S.C. §1446(a), all pleadings, process, orders, and all other filings in the state court action are attached to this Notice. A copy of this Notice is also concurrently being filed with the state court and served upon the Plaintiff.

3.4 Pursuant to 28 U.S.C. §1446(d), promptly after Defendant files this Notice, written notice of the filing will be given to Plaintiff, the adverse party.

3.5 Pursuant to 28 U.S.C. §1446(d), a true and correct copy of this Notice of Removal will be filed with the Clerk of the Bexar County District Court, after Defendant files this Notice. As required by 28 U.S.C. § 1446(a), attached hereto as Exhibit “1” is the Index of State Court Documents. A copy of the Bexar District Clerk’s file for this case is attached as Exhibit “2”, which includes true and correct copies of all executed process, pleadings and orders, and a copy of the case information sheet.

#### **IV. DOCUMENTS AND EXHIBITS ACCOMPANYING REMOVAL**

4.1 Simultaneously with the filing of this Notice of Removal, attached hereto as Exhibit “1” is an index of all documents filed in the state court action and a copy of each document.

4.2 Attached hereto as Exhibit “2” is a copy of the Case Information Sheet of the case pending in the 166th Judicial District Court of Bexar County, Texas.

4.2A Attached hereto as Exhibit “2A” is a copy of Plaintiff’s Original Petition.

4.2B Attached hereto as Exhibit “2B” is a copy of the return receipt for United States Liability Insurance Company on September 21, 2017.

4.2C Attached hereto as Exhibit “2C” is a copy of Plaintiff’s First Amended Petition.

4.3 Attached hereto as Exhibit “3” is a copy of Plaintiff’s July 24, 2017 Demand Letter.

4.4 Attached hereto as Exhibit “4” is a copy of USLIC’s Letter response to Plaintiff’s Demand Letter dated September 29, 2017.

**V.  
CONCLUSION**

5.1 Based upon the foregoing, and other documents filed contemporaneously with this Notice of Removal and fully incorporated herein by reference, Defendant United States Liability Insurance Company hereby removes this case to this court for further proceedings.

Respectfully Submitted,

/s/ Daniel P. Buechler

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**ATTORNEY FOR DEFENDANT  
UNITED STATES LIABILITY  
INSURANCE COMPANY**

**CERTIFICATE OF SERVICE**

This is to certify that on the 20th day of October, 2017, a true and correct copy of the foregoing was delivered to the following counsel of record by electronic service and certified mail, return receipt requested:

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